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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

LAURA LAROCCA et al.,

Cross-complainants and
Respondents,

v.

HARRY HARALAMBUS,

Cross-defendant and
Appellant.

B298435

(Los Angeles County
Super. Ct. No. LC093192)

APPEAL from an order of the Superior Court of the County of Los Angeles, Huey P. Cotton, Judge. Affirmed.

Harry Haralambus, in pro. per., for Cross-defendant and Appellant.

Law Offices of Adam L. Streltzer, Adam L. Streltzer, and Darius Anthony Vosylius for Cross-complainant and Respondent Laura LaRocca.

Russ, August & Kabat and Nathan D. Meyer for Cross-complainant and Respondent American Rag CIE, LLC.

* * * * *

Harry Haralambus and Laura LaRocca each held a judgment against the other. The trial court granted Ms. LaRocca's motion for offset, deducting the amount of the judgment she owed to Mr. Haralambus from the amount of the judgment he owed to her. Mr. Haralambus appeals, contending the trial court committed error by failing to balance the equities in ruling on the offset motion and considering the offset motion while a new case addressing the judgments was pending. We affirm.

BACKGROUND

In case No. BC426342, Ms. LaRocca obtained a judgment of \$1,214,757.95 against Mr. Haralambus, plus costs and interest (the Haralambus judgment). In this case, Mr. Haralambus obtained a judgment of \$119,310.91 against Ms. LaRocca, plus costs and interest (the LaRocca judgment). (Ms. LaRocca had prevailed in this action, but following a partial reversal on appeal, she was required to return \$119,310.91 she had recovered enforcing the judgment against Mr. Haralambus while the appeal was pending. (See *LaRocca v. Haralambus* (June 16, 2016, B257686) [nonpub. opn.].)

On February 7, 2019, Ms. LaRocca filed a motion for offset in this case, seeking to satisfy the LaRocca judgment (then worth about \$170,000) by offsetting it against the judgment still owing from Mr. Haralambus (then worth about \$1.6 million). At the time of her motion, Mr. Haralambus had not yet paid any portion of the Haralambus judgment.

Mr. Haralambus filed an "objection" to the motion. His objection did not develop any substantive legal arguments challenging the offset. Instead, he argued that Ms. LaRocca's motion should be heard contemporaneously with motions he

contemplated filing in the future to consolidate this case with a newly filed case (case No. 18STCV05291), and stay this case pending the outcome of that newly filed case. Mr. Haralambus never filed any motion to consolidate or motion for a stay.

According to Mr. Haralambus, the parties had entered into a stipulation regarding the payment of both the Haralambus and the LaRocca judgments. The stipulation provided Mr. Haralambus with an incentive to quickly pay the judgment against him. If he paid \$1,000,000, with \$500,000 due at the signing of the stipulation, and the remaining \$500,000 due within 120 days of signing, then Ms. LaRocca would file a satisfaction of judgment, and release any liens securing the judgment. Mr. Haralambus would also file a satisfaction of the judgment against Ms. LaRocca, and release any liens. If full payment was not received in accordance with the stipulation, it would be rendered void.

Mr. Haralambus had filed a lawsuit to enforce the stipulation against Ms. LaRocca (the enforcement action) a few months before Ms. LaRocca filed her motion for offset, alleging Ms. LaRocca breached the stipulation because her lien on Mr. Haralambus's assets prevented him from paying her in accordance with the stipulation.

The trial court denied Mr. Haralambus's request for a stay or continuance of the offset motion. Mr. Haralambus had not filed a notice of related case to relate the enforcement action with this case, and although he had reserved a hearing date for his motion to consolidate, no motion had been filed. The court observed that no payments had been made towards satisfaction of the Haralambus judgment, and that the stipulation therefore "appears" to be void. The court granted the motion for offset.

Following the trial court's ruling, Ms. LaRocca assigned her interest in the Haralambus judgment to American Rag CIE, LLC.

The trial court denied Mr. Haralambus's motion for reconsideration (which is not at issue in this appeal), and he filed a timely notice of appeal.

DISCUSSION

Mr. Haralambus contends the trial court committed error in various respects and asks this court to reverse and order the trial court to postpone adjudication of the offset motion until the enforcement action is resolved, or alternatively, order the trial court to conduct an evidentiary hearing to adjudicate any equitable issues.

"[A] judgment debtor who has acquired a judgment or claim against his judgment creditor may ask the court in which the judgment against him was rendered to have his judgment or claim offset against the first judgment. The offset of judgment against judgment is a matter of right absent the existence of facts establishing competing equities or an equitable defense precluding the offset." (*Brienza v. Tepper* (1995) 35 Cal.App.4th 1839, 1847-1848.) Whether offset is appropriate in equity is a question within the trial court's discretion. (*Fassberg Construction Co. v. Housing Authority of City of Los Angeles* (2007) 152 Cal.App.4th 720, 762-763.)¹

The trial court considered equitable factors when ruling on the motion for offset. The court considered what impact, if any, the enforcement action would have on Ms. LaRocca's right to offset. The court reasonably concluded that even if Mr. Haralambus prevailed in the enforcement action, he would

¹ Mr. Haralambus contends our standard of review is "independent," although he cites no authority supporting this.

suffer no prejudice from offset, given the relative sizes of the judgments. The court did not purport to resolve the merits of the pending enforcement action. While the court said the stipulation “appears” void for nonpayment, that was not the sole basis for the court’s ruling, and the court’s reasoning has no preclusive effect in the enforcement action.

Mr. Haralambus speculates that he would have received a more favorable outcome had the trial court deferred ruling on Ms. LaRocca’s motion until the pending enforcement action was resolved. Speculation about the outcome of the enforcement action does not establish prejudice. (See *Harmony Gold U.S.A., Inc. v. County of Los Angeles* (2019) 31 Cal.App.5th 820, 838.)

DISPOSITION

The order is affirmed. Respondents are awarded their costs on appeal.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

WILEY, J.